

Michael R. Totaro 102229
Totaro & Shanahan
P.O. Box 789
Pacific Palisades, CA 90272
(310) 804 2157 (v)
(310) 496-1260 (f)
Ocbkatty@aol.com

Attorneys for Debtor In Possession

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION

In re

**Henry George Brennan and
Lisa Ann Brennan**

Debtor in Possession.

Case No. 8:24-bk-10717-TA

Chapter 11

**DEBTOR IN POSSESSION'S CASE
MANAGEMENT CONFERENCE
STATEMENT**

Date: May 1, 2024
Time: 10:00 a.m.
Ctrm: Ct rm V-5b
411 w. Fourth St.
Santa Ana, CA 92701

Debtors in Possession Henry George Brennan and Lisa Ann Brennan submit the following Case Management Conference Statement:

2a. A brief description of the Debtor's businesses and operations, if any, and the principal assets and liabilities of the estate.

Debtor George Brennan is a medical doctor and the sole owner of a facility that is not involved in this proceeding. There are three pieces of real property Palm Dr. Oak Tree and Broken Bow. Oak Tree and Broken Bow are owned as separate property by Lisa Brennan and Palm Dr. is community property.

2b(1). Events Leading Up to Filing Bankruptcy.

George Brennan lives in Newport Beach to be close to his facility. Lisa Brennan is his spouse and lives in La Quinta.

1 A few years ago Debtors were close friends to a person who eventually passed away. The
2 deceased had an adopted son from a prior marriage who was not favored and who would have been
3 the logical beneficiary of the Deceased's life insurance policy. Instead he made George and Lisa
4 the beneficiaries.

5 After he passed and after the funds were distributed, Lisa was sued for elder abuse and
6 undue influence, among other causes of action. At a hearing on a motion, the plaintiff argued that
7 since Lisa filled out the change of beneficiary form there was a conclusive presumption of undue
8 influence and the court awarded the relative over \$650,000.

9 The problem is that their trial attorney did not know the law. When Ms. Bryner took over
10 for the appeal, she discussed the case with a probate attorney and discovered the conclusive
11 presumption only applied where the soon to be beneficiary drafted the change of beneficiary form.
12 It did not apply in a situation where someone was just filling out papers at the direction of the
13 deceased. In that situation they would just be considered a scribner.

14 Since the trial attorney did not know the law, when asked about the conclusive presumption
15 by the trial court, he conceded liability. As a result, special litigation counsel is not only pursuing
16 the appeal, on an expedited basis due to the spouse's age, but also filing a legal malpractice action
17 in this court to recover funds for the estate. She will also be objecting to any claim filed.

18 In addition, in unrelated litigation, a billing company obtained a judgment against a former
19 medical facility owned by Dr. Brennan for breach of contract. That entity went out of business due
20 to this judgment and a prior lawsuit.

21 Once the business was closed the lease remained so Lisa went in and took over the lease
22 by making payments, with no written lease. This was an entirely new operation with entirely
23 different services and equipment. The new center either purchased or leased new equipment and
24 was eventually sold 2 years later.

25 Because of these transactions, the billing company first threatened a law suit against Lisa
26 for a fraudulent transfer. Second they attempted to bring George and his new surgery center into
27 the judgment on an alter ego basis.

28 However the service did not show up at the alter ego hearing and the trial court mooted the

1 hearing instead of dismissing or denying the motion. We anticipate that an adversary may be filed
2 in this court by the plaintiffs.

3 Due to the constant litigation fees, Debtors are unable to support three properties. Lisa does
4 not work at the moment and Dr. Brennan's income is mostly diverted to the corporation paying
5 his living expenses in Newport Beach. If they had to make the mortgage payment on Palm Dr.
6 they would be negative over \$7,000 a month. By not making the payment they are still about
7 \$4,000 negative which is the reason Palm Drive is being sold.

8 **2b(2) What Does the Debtor Hope To Accomplish**

9 This will be a 100% plan to any debts that survive litigation. However, it is possible that
10 the legal malpractice case will provide the funds to pay the outstanding judgment.

11 However I the meantime Debtors do not have sufficient income to support all three
12 properties and without liquidation would not have the funds to pay any of the debt even if the
13 malpractice action were successful.

14 Debtors will attempt to propose a plan that will pay all creditors their allowed claims but
15 still keep the Oak Tree and Broken Bow properties.

16 **2(b)(3) Principle Disputes and Problems**

17 The first problem is contending with the judgment against Lisa that acts as a lien on all
18 properties. As to Oak Tree the lien infringes on the homestead and will be removed. As to Broken
19 Bow and Palm Dr. the liens will first be litigated through claims objections and the appeal. Debtors
20 will be filing a motion in the Court of Appeal to expedite the appeal based on the age of George
21 since he has a community property interest in the appeal

22 **2(b)(4) Resolving Disputes**

23 As to the judgment, Debtor is appealing the judgment since the ruling was clearly erroneous
24 and against settled law. However, at the same time Debtor will seek reimbursement from the law
25 firm that conceded a point that was clearly in their favor through lack of knowledge.

26 As a backup, Debtors are placing Palm Dr. on the market and will withhold funds from the
27 sale in the hopes of covering the judgment if they do not prevail on appeal or in the malpractice
28 action, The remainder of the debts can be paid over time.

2(b)(5) Compliance

Debtor is in compliance with the UST except for the March MOR which is coming due. However, Debtor's accountant is attempting to work with counsel to fill out the report based on information from the Debtors. There are four reports which must be filed.

2(b)(6) Cash Collateral

Currently there is no tenant in Palm Drive, Lisa lives in Oak Tree and the mortgage payment is being made on Broken Bow. We have not been able to see the loan papers on Broken Bow to determine the issue of cash collateral but all rents are used for the mortgage and maintenance.

2(b)(7) Use of Cash Collateral

Debtor's counsel is attempting to obtain loan docs and contact the lender on Broken Bow.

2(c) Professionals

Debtor has filed motions to hire an accountant, special litigation counsel, a real estate agent and general insolvency counsel. No other professionals are anticipated at this time.

2(d) Operations

Not Applicable.

2(e) Clams and Objections

Claims Bar Date: July 1 2024

Objection to Claims August 1, 2024

2(f) Plan and Disclosure

September 2, 2024

2(g) Unexpired leases and contracts

None

2(h) Combined Disclosure and Plan

Since this is a 100% plan, Debtor would request a combined hearing on the disclosure and plan and believes it may be appropriate to file a plan which incorporates sufficient information to also act as a disclosure

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Dated: April 17, 2024

Totaro & Shanahan, LLP

/s/ Michael R. Totaro
Michael R. Totaro
Proposed General
Insolvency Counsel

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: P.O. Box 789, Pacific Palisades, CA 90272

A true and correct copy of the foregoing document described "Debtor in Possession's Case Management Conference statement w/ Declaration from Counsel and Exhibit" will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") – Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On April 17, 2024 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

☒ Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):

On April 17, 2024 I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Henry George Brennan
Lisa Ann Brennan

☒ Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on _____

I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

April 17 2024

Michael R. Totaro

/s/ Michael R. Totaro

Date

Type Name

Signature

Ecf Service

- **Michael J Hauser** michael.hauser@usdoj.gov
- **Wendy A Locke** ecfcacb@aldridgepate.com, wlocke@ecf.inforuptcy.com
- **Michael R Totaro** Ocbkatty@aol.com
- **United States Trustee (SA)** ustpreion16.sa.ecf@usdoj.gov

Manual Service:

Aclaim Recovery Mgnt

c/o Joseph Kar
15250 Ventura Blvd. #PH1220
Sherman Oaks, CA 91403

Big Canyon Country Club

1 Big Canyon Dr
Newport Beach, CA 92660

Capital One Bank, NA

P.O. Box 31293
Salt Lake City, UT 84131

Citibank, NA

P.O. Box 6241
Sioux Falls, SD 57117

Colin McClintock

c/o Charles D. Commings
Sullivan, Workman et al
600 N. Rosemead Blvd. #209
Pasadena, CA 91107

JP Morgan Chase

P.O. Box 15369
Wilmington, DE 15890

Lakeview Loan Servicing, LLC

P.O. Box 60509
City of Industry, CA 91706

Lane F. Smth, MD

59 Cascade Creek Lane
Las Vegas, NV 89117

Loan Care

3637 Sentara Way
Virginia Beach, VA 23452

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Macy's
P.O. Box 6789
Souix Falls, SD 57117

Nordstrom
13531 E. Caley Ave.
Englewood, CO 80111

Roundpoint Mortgage
5032 Parkway Plaza Blvd
Charlotte, NC 28217